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11 Capital One Bank (erroneously sued
12 as Capital One Services, Inc.)

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

16 DICK NEWMAN, ANN NEWMAN, AND THE
17 CLASS OF PERSONS SIMILARLY
18 SITUATED,

No.: C05-05409 JW HRL

The Honorable James Ware

19 [PROPOSED] ORDER GRANTING
20 DEFENDANT CAPITAL ONE BANK'S
MOTION TO DISMISS PLAINTIFFS'
COMPLAINT

Date: May 18, 2006
Time: 9:00 a.m.
Place: Courtroom 8

21 CAPITAL ONE SERVICES, INC.; TRANS
UNION LLC; EQUIFAX, INC.;
EXPERIAN SERVICES CORP.; BANK OF
AMERICA CORPORATION; JPMORGAN
CHASE & CO.; MBNA MARKETING
SYSTEMS, INC.; DISCOVER FINANCIAL
SERVICES, INC.; FIRST USA BANK, A
BANK ONE COMPANY; CAVALRY
PORTFOLIO SERVICES, LLC; DAVID A.
BAUER,

22 Defendants.

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1 The Court has reviewed Defendant Capital One Bank's ("Capital
2 One") Motion to Dismiss the Complaint filed by Plaintiffs Dick
3 Newman and Ann Newman and all opposition and supporting papers.
4 Good cause appearing therefore, the Court hereby grants Capital
5 One's Motion to Dismiss in its entirety, and dismisses, with
6 prejudice, Plaintiff's first, second, third, fourth, fifth, sixth,
7 and seventh causes of action, respectively, for: (1) libel;
8 (2) breach of contract; (3) fraud; (4) purported violations of the
9 federal Fair Credit Reporting Act; (5) purported violation of the
10 Equal Credit Opportunity Act; (6) purported violation of the
11 California Fair Debt Collection Practices Act; and (7) intentional
12 infliction of emotional distress.

Dated:

The Honorable James Ware